IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.MC.No. 2207 of 2007()
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PETITIONER:
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KARTHIYANI, W/O. JAYAPALAN,
KIZHAKKOOT HOUSE, ARATTUPUZHA, THRISSUR.

BY ADV. SRI.C.HARIKUMAR
SRI.VIZZY GEORGE KOKKAT

RESPONDENTS:
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STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA.

BY P.P. SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**Crl.M.C. NO. 2207 OF 2007**

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Dated this the 10th day of July, 2007

**ORDER**

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. Cognizance has been taken. Consequent to the non-appearance of the petitioner, a non-bailable warrant of arrest was issued by the learned Magistrate against the petitioner. The petitioner approached the learned Sessions Judge for anticipatory bail. Directions were issued in her favour. She was directed to surrender before the learned Magistrate on 25/6/07. She did not so surrender. Later, she approached the learned Sessions Judge again for extension of time. The learned Sessions Judge did not grant the said request.

2. According to the petitioner, she is absolutely innocent. There was no wilful default on her part to appear. The

petitioner is a woman aged about 62 years. She had no information about the pendency of the proceedings. It is, in these circumstances, that she approached the learned Sessions Judge for anticipatory bail. On the date specified by the learned Sessions Judge i.e., 25/6/07, the petitioner could not appear on account unavoidable reasons. In these circumstances, the learned Sessions Judge must have granted extension of time, it is submitted.

3. I am satisfied that it is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to

the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

5. I make it clear that the fact that the petitioner had not appeared before the learned Magistrate on 25/6/07, as directed by the learned Sessions Judge initially, shall not, in any way, weigh with the learned Magistrate while considering the application for regular bail.

**(R. BASANT, JUDGE)**

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